ssm

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 647 OF 1994

Mr. Balasaheb Tatoba Chougule ...Appellant.

Vs.

The State of Maharashtra ...Respondent.

Mr. Tejpal S. Ingale for the appellant.

Mrs. G.P. Mulekar, AGP for the State.

CORAM : ANOOP V. MOHTA,J.

DATED : 29th August, 2007

ORAL JUDGMENT:-

1. The appellant, being dissatisfied by the impugned order dated 12th February, 1993 passed by the 2nd Joint Civil Judge, Senior Division, Sangli, has preferred this first appeal. Though the reference was allowed, still the amount as granted was not as per his claim. The appellant has claimed the price of lands to the extent of Rs.70,000/- to 75,000/- per acre.

2. The learned trial Court, after considering the two

sale-deeds, Exhibit 12 and 13 dated 6th July and 23rd December, 1983 respectively which deals with the transaction of land which are 400 to 500 away from the acquired land in question of the applicant. The learned trial Court, therefore, while enhancing the compensation from Rs.16,500/- per hectare to Rs.20,000/- per hectare as considered and observed that the land acquisition officer has not given adequate and proper compensation. Exhibit 12 and 13 the two sale instances are part of the record remained undisturbed and uncontroverted. There is no contra material placed on the record. The appellant in his evidence has further supported his case for enhancement by stating that :-

" I have seen the land which is purchased by Prakash Patil from Mhamad Mujawar vide sale deed Exh. 12. My acquired land is superior in quality than the land purchased by Prakash Patil vide Exh. 12 because land purchased by Prakash Patil is not in level. Said land is 500 ft. away from my acquired land to the East side. I have also seen land purchased by Dnyanu Sayamote from Kalavati Mhaske vide sale deed Exh. 13. Said land is also 400 ft. away from my land and it is in East-South corner. Said land is also inferior in

quality and my land is superior quality land."

3. In the cross-examination, above testimony remained undisturbed.

4. In view of this as those sale instances are just cannot be overlooked and rightly considered even by the trial court while dealing with the fact that as per Exhibit 12 one Prakash purchased 76-Ares land for Rs.40,000/- and Dnyanu purchased a land of 44-Ares for Rs.30,000/-. In this background, the grant of Rs.20,000/- per hectare in my opinion is not sufficient.

5. Taking all this into account, I am of the view that the rate of Rs.30,000/- per hectare would be just, fair and proper.

6. The respondent shall pay the interest @ 12% p.a. from 9th October, 1986 i.e. the date of notification till 7th July, 1989 i.e. till the date of possession on the enhanced compensation.

7. The respondent shall also pay interest @ 9% p.a. from 7th July, 1989 till 7th July, 1990 and

thereafter, @ 15% p.a. till the realization on the enhanced amount.

8. The award/ the impugned judgment is modified accordingly. The rest of the award is maintained.

9. In the result, the appeal is allowed to the above extent with all benefits in accordance with law.

(ANOOP V. MOHTA, J.)